

GENERAL
ASSEMBLYASSEMBLEE
GENERALEA/AC.13/SR.11
24 June 1947

ORIGINAL: ENGLISH

SPECIAL COMMITTEE ON PALESTINE

SUMMARY RECORD OF THE ELEVENTH MEETING (PRIVATE)
HELD AT THE Y.M.C.A. BUILDING, JERUSALEM,
SUNDAY, 22 JUNE 1947 at 9:30 A.M.

Present:

Chairman:	Mr. Sandstrom	(Sweden)
	Mr. Hood	(Australia)
	Mr. Rand	(Canada)
	Mr. Lisicky	(Czechoslovakia)
	Mr. Garcia Granados	(Guatemala)
	Sir Abdur Rahman	(India)
	Mr. Entezam	(Iran)
	Mr. Spits	(Netherlands)
	Mr. Garcia Salazar	(Peru)
	Mr. Fabregat	(Uruguay)
	Mr. Simic	(Yugoslavia)

Secretariat: Mr. Hoo (Assistant Secretary-General)
Mr. Garcia Robles (Secretary)

The Chairman called the meeting to order at 9:50 a.m.

Consideration of Letter¹ Received by the Chairman

The Chairman expressed his surprise at the desire manifested by some members for an official demarche in the matter notwithstanding his own unofficial visit to the High Commissioner. He requested members to state now why further action was considered necessary.

Mr. SIMIC (Yugoslavia) explained the reasons why he was opposed to the view that the Committee was not competent to deal with the letters received. He declared that, in his view, the question of competence did not arise either in a formal or a material sense; that there could be no question of interference by the Committee in the domestic affairs of Palestine nor of an encroachment upon its sovereignty; that the Committee was not entitled to narrow its terms of reference nor required to bring /these terms

1.- Document A/AC.13/NC/27.

those terms in conformity with the provisions of the laws of Palestine; that, in pursuance of the resolution¹ adopted by the General Assembly at its 79th Plenary Meeting, the Committee had the right to draw the attention of the Government of Palestine to this matter; and that the whole question of Palestine had now been brought within the scope of international law in conformity with established procedures. He concluded by emphasizing his conviction that the carrying out of the death sentence imposed on the three men would be liable to entail undesirable consequences which might not be of a purely political nature. For these reasons he maintained that the Committee as a whole should take appropriate steps with the Government of Palestine to obtain mercy for the condemned men.

The CHAIRMAN repeated his own conviction that the request from the parents of the condemned men was outside the scope of the Committee's functions. The Committee's concern had already been brought to the attention of the authorities who would take it into consideration. It would be very unsatisfactory to interfere in domestic matters.

Mr. GARCIA GRANADOS (Guatemala) disagreed with the Chairman's statement that the Committee was not competent to take any steps in regard to this question and that the demarche already made was sufficient to indicate the Committee's sentiments. The problem was now known throughout the world and the Committee could not close its eyes to this fact. In the circumstances he proposed that a communication, the text of which he read out, should be sent to the High Commissioner which, while pointing out that the Committee had no intention of interfering with the functions of the
/Palestine

Palestine Courts, drew his attention to the political consequences which might arise from the execution. In case the High Commissioner was contemplating a measure of mercy, the proposed communication stated that the Committee would consider any future act of violence as jeopardising its work. He concluded by urging that the Committee take a stand on the matter, for or against, and that it should act officially.

Sir ABDUR RAHMAN (India) criticised the statement of Mr. SHARIF, pointing out that it would be preposterous for the Committee to interfere in the internal administration of a country to which it had been sent for certain purposes only. He drew the Committee's attention to the fact that it had refrained from appealing to the Arab Higher Committee on the ground that it was wrong for the Committee to interfere in party politics. He submitted that an appeal had been made by the General Assembly's resolution to the United Nations and the United Nations alone could deal with the question. The appeal was not an appeal to the Committee. The Committee's task was to decide whether it was competent to deal with the matter.

The CHAIRMAN stated that he had not raised the matter with the High Commissioner on humanitarian grounds but on the general grounds that it concerned the Committee's work. He suggested that the following reply ¹ should be sent to the relatives:-

"On behalf of the Special Committee on Palestine I wish to acknowledge receipt of your letter of 17 June 1947 addressed to me as Chairman, concerning the three young men who had been convicted and sentenced to death by the Military Court of Jerusalem on 16 June.

"On grounds relating to the circumstances of the case and the personal conditions of the condemned you request the Committee to use its good offices with the Government and Military Authorities to prevent the execution of the youths by procuring a commutation of the death sentence passed upon them.

/Your letter

1.- For final text see document A/AC.13/23

"Your letter has been called to the attention of the Committee which has considered it with full appreciation of your anguish.

"I am authorized by the Committee to tell you that the Committee has no intention to interfere with the administration of justice in Palestine; but having regard to the task of the Committee, the matter has been brought to the attention of the proper authorities."

The CHAIRMAN also circulated the following text¹ of a resolution to be sent to the Secretary-General of the United Nations :

"In view of the fact that some members of the Committee have expressed concern as to the possible unfavorable repercussions that execution of the three death sentences against Jewish terrorists pronounced on the day on which the Committee held its first meeting in Jerusalem might have upon the fulfilment of the task which the General Assembly has entrusted the Committee; and

"Considering the opinion of such members of the scope of the resolution on the Palestine question, adopted on 15 May 1947 by the General Assembly;

"The Committee is in accord that the Chairman bring the matter to the attention of the Secretary-General for communication of the above-mentioned views to the Mandatory Power."

Mr. HOOD (Australia) said it was significant that the Committee had not received any communication regarding the condemned men from any organization with which the Committee was concerned, but only from private persons. He maintained that the Committee as a whole was clearly not convinced that some positive action should be taken as was desired by some members. He therefore suggested that members should recognize the difficulties that would arise if they insisted on their point of view, and proposed that the Committee should examine the text of the reply read by the Chairman.

Mr. GARCIA GRAHADOS (Guatemala) insisted that his own proposal should be discussed first.

/ Mr. SIMIC

1.- For final text see document A/AC.13/24

Mr. SIMIC (Yugoslavia) supported Mr. Garcia Granados' proposal. Mr. FABREGAT (Uruguay) suggested that the Committee should call the attention of the Government of the Mandatory Power to the situation that would undoubtedly affect the Committee's work as a result of the death sentences pronounced by the Military Court of Jerusalem, requesting it at the same time to commute the sentences. He explained the circumstances in which the Committee was created and pointed out that the situation with which the Committee was confronted on its arrival in Palestine - death sentences for political reasons - had in fact already affected its work. He asked that his proposal should be considered together with that suggested by Mr. Garcia GRANADOS.

Mr. LISICKY (Czechoslovakia) proposed first, to transmit to the High Commissioner the letter received from the relatives of the condemned men to be dealt with according to his competence; secondly, that the Committee should communicate to the High Commissioner that it fully shared the views expressed to him by the Chairman in his private capacity.

The CHAIRMAN stated that there might be an intermediary solution acceptable at least to the majority. He proposed that the Committee should first adopt the text of the letter which he had read out. Later, the Committee could consider its attitude to the repercussions which the execution of the death sentences might have on its work. The best way to deal with the latter point was to inform the Secretary-General of the United Nations of the apprehension of some members that the executions might interfere unfavourably with the Committee's work, and to ask him to forward that communication to the Mandatory Power.

Mr. GARCIA GRANADOS (Guatemala) moved that the last paragraph of the reply be amended to read: "I am authorized by the majority
/of the Committee...

of the Committee....". He further insisted that his own proposal should be discussed and voted upon before the proposal submitted by the Chairman.

Mr. SIMIC (Yugoslavia) expressed his opposition to the Chairman's proposition pointing out that the Committee had before it several proposals, including one from himself, which should be examined first.

The CHAIRMAN stated that his own proposal was intended to obtain unanimity.

Mr. ENTEZAM (Iran) proposed that in order to arrive at a compromise, a sub-committee should be constituted to seek an acceptable proposal. The sub-committee should be composed of the Representatives of Guatemala, India, Czechoslovakia and Uruguay with the Chairman to act as Chairman of the sub-committee.

Mr. SALAZAR (Peru) supported Mr. Entezam's proposal.

Sir ABDUR RAHMAN (India) suggested that the Representative of Canada be added to the sub-committee.

Mr. RAND (Canada) declared that, in his view, the Committee was in danger of losing its perspective in considering this delicate matter. The Committee ought to proceed judicially and judiciously in its action towards both parties to the controversy and towards the Administration of Palestine. He referred to the fact that many Arabs were still in gaol for political offences and asked whether the Committee would be willing to propose a general amnesty. He could not see how the administration of the existing laws of Palestine could impede the work of the Committee. He thought it would be most impertinent on the part of the Committee if it were to trespass in the slightest degree upon the existing enforcement of the laws of Palestine. Mr. RAND also emphasized the danger of creating a precedent by unilateral action in the

present case, if humanitarian feelings, which he fully appreciated, were to influence the Committee to intervene. He asked the Committee to act only on a principle which would be applicable in all such cases: that of having the strictest regard for the limits of the Committee's functions and the terms of the commission entrusted to it by the United Nations.

Mr. GARCIA GRANADOS (Guatemala) disagreed with the views expressed by Mr. RAND, claiming that the Committee was conducting a political and not a judicial investigation. His own impression was that the way the trials had taken place since the Committee's arrival was a kind of political "slap" to the Committee. He felt that the Government of Palestine's attitude was that the present Committee was merely a fact-finding one, and therefore not entitled to propose a final solution of the Palestine problem.

The CHAIRMAN called for a vote on the question of appointing a Sub-Committee.

DECISION:

The Committee decided by 6 affirmative votes to appoint a Sub-Committee consisting of the representatives of Guatemala, India, Czechoslovakia, Uruguay and the Chairman to examine the proposals before the Committee and seek an acceptable compromise.

Mr. HOOD (Australia) expressed his desire to serve on the Sub-Committee.

Mr. RAND (Canada) also declared he would like to serve.

Mr. GARCIA GRANADOS (Guatemala) pointed out that, since the Sub-Committee would thus consist of the majority of the Committee, it would be better to annul the decision taken, and suspend the meeting for fifteen minutes to permit informal discussion.

DECISION:

The CHAIRMAN, after discussion declared the meeting suspended to enable members to discuss informally the proposals before the Committee.

/The meeting

(The meeting was suspended at 11:40 a.m. and resumed at 12:40 p.m.)

The CHAIRMAN invited members to examine a revised text of the letter and the proposed decision regarding the communication to the Secretary-General. He suggested that the words "some members of the Committee" in the latter document might be changed to "the Committee" if there was a majority.

Mr. HOOD (Australia) raised the question of the propriety of such a communication from a Special Committee of the United Nations to the Secretary-General. He asked for a clarification of the phrase in the last paragraph of the draft letter: "the matter has been brought to the attention of the proper authorities." He maintained that the Secretary-General was not empowered to address individual governments, unless he were requested or directed by the General Assembly to do so. The Charter did not empower the Secretary-General to address a particular government at the request of a Committee. If the Committee adopted the proposed step, this would not satisfactorily settle its problem: it would, in effect, be an evasion of its responsibility. Mr. HOOD further enquired if the members who had expressed concern over the question under discussion spoke for themselves as individuals or as representatives of their Governments. In the former case, the Charter had no provision for conveying individual views to a government through the machinery of the United Nations; in the latter case, the proper course would be to convey such views through normal diplomatic channels. In conclusion, Mr. HOOD declared that the proposal for action by the Committee was, in his view, an act of interference and intervention beyond the competence of the Committee's functions.

Mr. HOO (Assistant Secretary-General), in reply to the Chairman's request for information on the point raised by Mr. Hood concerning the Secretary-General, stated that this was a very special case. In his opinion, which ^{was} a personal one since he had not consulted the Secretary-General, any Committee of the United Nations, providing it took a decision within its competence, could request the Secretary-General to do what was necessary to implement that decision, even if only one government was concerned.

/Sir ABDUR RAHMAN

Sir ABDUR RAHMAN (India) raised again the question of the Committee's competence to deal with the matter. He maintained that as the Committee was appointed by the General Assembly, it could only approach a government through the General Assembly.

The CHAIRMAN expressed the view that the Committee, if it were concerned at the repercussions which the executions might have, could ask that the matter be brought to the attention of the Mandatory Power through the channel of the Secretary-General.

Sir ABDUR RAHMAN (India) differed from the Chairman's view and maintained that the Committee should decide whether or not it was acting within its competence.

Mr. GARCIA GRANADOS (Guatemala) maintained that the Chairman's proposal was within the rights of the Committee, which had to deal with the Mandatory Power in many political ways. The mediator between the Committee and the Mandatory Power was the Secretary-General.

Mr. RAND (Canada) moved the adjournment of the debate in order to give further consideration to the matter.

Mr. GARCIA GRANADOS (Guatemala) and Mr. SIMIC (Yugoslavia) opposed the motion.

DECISION:

A vote was taken and Mr. Rand's motion to adjourn the debate was defeated.

Mr. LISICKY (Czechoslovakia) stated that it was within the Committee's scope to address a communication to the Secretary-General.

Sir ABDUR RAHMAN (India) asked for a decision whether it was within the competence of the Committee to submit this question to the Secretary-General.

Mr. ENTEZAM (Iran) considered that the Committee should have no hesitation in referring the question to the Secretary-General. If he were in doubt as to his competence, he could say so.

Mr. RAND (Canada) proposed an amendment to the last paragraph of the proposal to be communicated to the Secretary-General to read as follows: "...The Committee is in accord that the Chairman bring the matter to the attention of the Secretary-General for any action that

/he

he may consider proper."

Mr. GARCIA GRANADOS (Guatemala) opposed this amendment on the ground that, if accepted, it would give the Secretary-General a jurisdiction which he did not have and would make him a master of the Committee's action. The Secretary-General was simply a functionary of the United Nations and had only administrative powers.

Sir ABDUR RAHMAN (India) formally moved that the Committee was not competent to deal with the matter in any way at all.

Mr. HOOD (Australia) seconded the motion.

Mr. HOO (Assistant Secretary-General) then explained further the functions of the Secretary-General, and quoted Article 99 of the Charter to indicate that the Secretary-General had wider powers than those of the Secretary-General of the League of Nations. He referred to Article 98 which required the Secretary-General to "perform such other functions as are entrusted to him" by the General Assembly and other principal organs of the United Nations.

The CHAIRMAN stated that as the question of the Committee's competence had been presented in such a wide form, it would be better to have an adjournment.

Mr. GARCIA GRANADOS (Guatemala) proposed that the proposition presented by Sir Abdur Rahman be put to the vote.

Mr. LISICKY (Czechoslovakia) moved for an adjournment because of the late hour.

The CHAIRMAN asked for further information about the Committee's competence to refer the matter to the Secretary-General.

Mr. STAVROPOULOS (Assistant Secretary and Legal Advisor) expressed the opinion that the Secretary-General was not competent to act as a mediator in this case. He was, however, competent to transmit the Committee's communication to the Mandatory Power. The question was whether the Committee was competent to send such a communication to the Secretary-General.

Next Meeting

(It was decided that the Committee would meet again at 4:00 p.m.)

The meeting adjourned at 1:30 p.m.)